

Message Text

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ACTION STR-04

INFO OCT-01 ARA-06 EUR-12 EA-07 NEA-10 IO-13 ISO-00 STRE-00

FEA-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 EB-07

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 ITC-01 TRSE-00 PRS-01

SP-02 OMB-01 NSCE-00 SSO-00 USIE-00 INRE-00 OIC-02

AF-08 /133 W

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O R 091710Z JUL 76

FM USDEL MTN GENEVA

TO SECSTATE WASHDC IMMEDIATE 1730

INFO AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

USMISSION EC BRUSSELS

AMEMBASSY BUENOS AIRES

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY LA PAZ

AMEMBASSY MEXICO CITY

AMEMBASSY NEW DELHI

AMEMBASSY PARIS

USMISSION OECD PARIS

AMEMBASSY OSLO

AMEMBASSY GUATEMALA

AMEMBASSY OTTAWA

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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AMEMBASSY WELLINGTON

LIMITED OFFICIAL USE SECTION 1 OF 2 MTN GENEVA 5450

ACTION STR

H PASS CODEL

E.O. 11652: N/A

TAGS: ETRD; MTN

SUBJ: MEETING OF NTM SUBGROUP ON CUSTOMS MATTERS, JULY 518,
1976

1. SUMMARY: MEETING WAS HIGHLIGHTED BY LIVELY DEBATE ON AUSTRALIAN PROPOSAL TO INCLUDE VARIABLE LEVIES AS VALUATION TOPIC, LDC INSISTENCE THAT CONSULAR FEES AND FORMALITIES CREATE NO IMPEDIMENT TO TRADE AND EC ADMIS- SION THAT VALUATION WORK ENCOMPASSES CHAPTERS 1 - 99 OF CCCN. NEXT STEP IN WORK PROGRAM ON VALUATION TO BE BASED ON SECRETARIAT REFINEMENT OF CHECKLIST OF POSITIONS ON VALUATION TOPICS. SECRETARIAT ALSO TO PREPARE PAPER DESCRIBING WORK BEING DONE IN CUSTOMS COOPERATION COUNCIL (CCC) AND ECONOMIC COMMISSION FOR EUROPE (ECE) ON DOCUMENTATION AND CUSTOMS PROCEDURES TOPICS. US PROPOSAL FOR PLURILATERAL CONSULTATION ON CONSULAR FORMALITIES AND FEES WAS READILY SUPPORTED BY DEVELOPED COUNTRIES BUT OPPOSED BY LDC'S MAINTAINING CONSULAR FORMALITIES AND FEES. END SUMMARY.

2. AUSTRALIA (SPENCER) OPENED MEETING BY PRESENTING CASE THAT VARIABLE LEVIES (VL'S) SHOULD BE COVERED BY DRAFT VALUATION PRINCIPLES SUBGROUP CURRENTLY EXAMINING. HE STATED THAT VL'S ARE INCONSISTENT WITH GATT ARTICLE VII, WHICH COVERS CUSTOMS DUTIES AS WELL AS OTHER CHARGES AND RESTRICTIONS, AND THEREFORE APPROPRIATE FOR CONSIDERA- TION BY THE SUBGROUP. AUSTRALIA PROPOSED SUBGROUP UNDER- TAKE A STUDY OF VL ISSUES SINCE ASSESSMENT OF VL'S WHICH IS BASED UPON LOWEST WORLD MARKET PRICE, IN ANALOGOUS TO ASSESSMENT OF CUSTOMS DUTIES BASED UPON IMPORT PRICE. US(NEWKIRK) OPINED THAT THERE MAY BE A CLOSE CONNEC-
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TION BETWEEN VL'S AND ASSESSMENT OF CUSTOMS DUTIES, PAR- TICULARLY WITH REGARD TO ESTABLISHMENT OF A NOTIONAL VALUE OF MERCHANDISE BASED UPON MARKET VALUE IN ANOTHER, I.E. WORLD, MARKET. US QUERIED EC AS TO COVERAGE OF VALUATION WORK AND WHETHER VALUATION SYSTEMS SUCH AS BRUSSELS DEFINITION OF VALUE (BDV) APPLY TO ALL MERCHANDISE, BOTH AGRICULTUREAL AND INDUSTRIAL, STATING THAT THIS COVERAGE IMPORTANT TO WORK

OF VALUATION SUBGROUP. AUSTRALIAN PROPOSAL ALSO SUPPORTED BY NEW ZEALAND AND, WEAKLY, BY CANADA. EC(CHUMAS), SUPPORTED BY AUSTRIA, ARGUED THAT VL'S ARE SIMILAR TO SPECIFIC DUTIES AND ARE SUI GENERIS TO GATT SYSTEM. IF THESE WERE AD VALOREM DUTIES, EC WOULD CONCEDE THAT SUBGROUP COULD DISCUSS VALUATION ASPECTS OF THEM. EC REITERATED POSITION THAT IT IS WILLING TO DISCUSS VL'S IN GROUP AGRICULTURE, BUT CONCEDED THAT IT HAS NO MANDATE TO DISCUSS TOPIC IN CUSTOMS MATTERS SUBGROUP. EC CONFIRMED THAT BDV APPLIES TO CHAPTERS 1 THROUGH 99 OF CUSTOMS COOPERATION COUNCIL NOMENCLATURE (CCCN) (FORMERLY KNOWN AS BRUSSELS TARIFF NOMENCLATURE - MTN), WHERE DUTIES ARE AD VALOREM. EXAMINATION OF VL'S, IN EC VIEW, WOULD REQUIRE EXAMINATION OF ALL SPECIFIC DUTIES, I.E. ENTIRE SWISS TARIFF SCHEDULE. AUSTRALIA CHIDED EC FOR NOT AGREEING TO TAKE UP AN INSTRUMENT OF PROTECTION IN SUBGROUP OF INTEREST TO OTHER PARTICIPANTS AND REITERATED ITS ARGUMENT THAT IF GROUP NOT COMPETENT IN AGRICULTURAL AREA THEN IT IS DIFFICULT TO SEE HOW SUBGROUP CAN MAKE ANY PROGRESS. SINCE EC DID NOT REFUTE THAT VL'S IS A CUSTOMS MATTER AUSTRALIA SUGGESTED THAT, GIVEN INTEREST OTHER PARTICIPANTS EXPRESSED IN A POSSIBLE STUDY OF VL'S SUBGROUP SHOULD REVERT TO TOPIC AT NEXT MEETING. AFTER LONG DEBATE THE EC, SURPRISINGLY, ACCEPTED FOLLOWING PARAGRAPH IN CHAIRMAN'S SUMMING UP: QUOTE THE GROUP RECOGNIZED THAT IN ADDITION TO CUSTOMS DUTIES ALL OTHER CHARGES OR RESTRICTIONS COVERED BY GATT ARTICLE VII WERE RELEVANT TO ITS DISCUSSIONS ON POSSIBLE ELEMENTS THAT MAY BE INCLUDED IN ANY NEW SET OF INTERNATIONAL RULES OR PRINCIPLES ON CUSTOMS VALUATION. SOME DELEGATIONS POINTED OUT THAT THERE WAS A CLOSE ANALOGY BETWEEN THE ASSESSMENT OF VALUE FOR DUTIES AND THE LIMITED OFFICIAL USE

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DETERMINATION OF THE BASIS ON WHICH SOME CHARGES, SUCH AS VARIABLE LEVIES WERE CALCULATED. SOME DELEGATIONS CONSIDERED THAT THESE MEASURES DID NOT FALL WITHIN THE MANDATE OF THE SUBGROUP, BUT RATHER OF GROUP AGRICULTURE, THOUGH THEY ACKNOWLEDGED THAT ANY NEW VALUATION PRINCIPLES OR RULES WOULD COVER CHAPTERS 1-99 OF THE CCCN. THE SUBGROUP ACCEPTED THAT THIS QUESTION WOULD BE RAISED AT ITS NEXT MEETING. UNQUOTE.

3. VALUATION: JAPAN PROPOSED FUTURE WORK PROGRAM OF SUBGROUP BE BASED UPON CHECKLIST OF POSITIONS CONTAINED IN MTN/NTM/W/51 WITH SECRETARIAT CLASSIFYING POSITIONS TO A) AREAS OF AGREEMENT AND B) AREAS WHERE DIVERGENT VIEWS EXIST. EC, NORDICS, NEW ZEALAND, AND CANADA AGREED WITH JAPANESE PROPOSAL, INDICATING

THAT SUCH REFINEMENT BE DONE IN CLOSE CONSULTATION WITH DELEGATIONS. US STATED IT IS UNABLE TO COMMIT ITSELF TO ANY RULES OR PRINCIPLES ON WHICH A NEW INTERNATIONAL VALUATION SYSTEM COULD BE BASED. US INDICATED ITS PARTICIPATION IN WORK PROGRAM AND SUBGROUP DISCUSSION IS ON BASIS OF EXPLORING POSSIBLE BEST SOLUTIONS TO IDEAL SYSTEM AND ANY US PRESENTATIONS ARE NOT NECESSARILY MEANT TO REFLECT VIEWS ON PRESENT VALUATION SYSTEMS. US CAUTIONED SUBGROUP NOT TO DRAW CONCLUSION THAT AGREEMENT REACHED WHERE APPARENT CONSENSUS APPEARS IN CHECKLIST SINCE POSITION ON VALUATION ISSUES ARE INTERRELATED AND MAY BE MISINTERPRETED WHEN TAKEN OUT OF CONTEXT. US REITERATED POSITION THAT DIFFERENT VALUATION SYSTEMS, PER SE, DO NOT CONSTITUTE A NON-TARIFF MEASURE, AND THAT IF US IS TO SEEK CHANGES IN ITS VALUATION SYSTEM, US WOULD REQUIRE ADEQUATE COMPENSATION.

4. SUBGROUP PROCEEDED TO EXAMINE CHECKLIST ITEM BY ITEM. US EXHORTED SUBGROUP TO MAKE COMMENTS ON ELEMENTS OF

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INFO OCT-01 STRE-00 FEA-01 AF-08 ARA-06 EA-07 EUR-12

NEA-10 OIC-02 SSO-00 NSCE-00 USIE-00 INRE-00 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 EB-07 FRB-03 H-02

INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 ITC-01 TRSE-00 PRS-01 SP-02 OMB-01

ISO-00 /120 W

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AMEMBASSY MEXICO CITY

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ACTION STR
H PASS CODEL

POSSIBLE NEW VALUATION SYSTEM IN SPIRIT OF EXPLORING
BEST POSSIBLE ELEMENTS. EC AGREED, BUT THEN TURNED TO
CRITICIZE CANADIAN SYSTEM OF VALUING IMPORTS ON BASIS
OF IDENTICAL OR LIKE GOODS IN EXPORTING MARKET AND
LEVELS OF TRADE ON WHICH COMPARISONS ARE MADE, AND
CHARGED THAT CANADIAN SYSTEM AFFORDS ADDITIONAL PROTEC-
TION SINCE COMPARISONS ARE MADE USING LOWER QUANTITY OF
SALES IN EXPORTING MARKETS TO ASCERTAIN VALUE, WHICH
RESULTS IN A HIGHER APPRAISED VALUE FOR ACTUAL MERCHAN-
DISE EXPORTED. AUSTRALIA REITERATED POINTS MADE PRE-
VIOUSLY REGARDING VARIABLE LEVIES UNDER APPLICABLE HEADINGS
IN CHECK LIST, I.E. VL'S PROVIDE ADDITIONAL PROTECTION BY
ARTIFICIALLY INCREASING IMPORT VALUE, ARE USED TO COMBAT
DUMPING, AND ARE UNPREDICTABLE. NEW ZEALAND REVISED ITS
PREVIOUS POSITION ON PUBLICATION OF CUSTOMS DECISIONS BY
STATING THAT SIGNIFICANT POLICY DECISIONS SHOULD BE PUB-
LISHED WITHOUT CONFIDENTIAL DETAILS. US WELCOMED NEW ZEA-
LAND STATEMENT AND REITERATED ATTRIBUTES OF US PUBLICA-
TION SYSTEM AND INVITED SUBGROUP TO EXAMINE SAMPLES OF PUB-
LISHED US CUSTOMS DECISIONS. EC ASKED SUBGROUP TO FOCUS
ITS ATTENTION ON FOLLOWING CONCRETE VALUATION ISSUES:

QUANTITIES, PRICES, STANDARD PRICE IN VALUING GOODS, AND DEFINITION OF A NORMAL TRANSACTION AS OPPOSED TO EXCEPTIONAL CIRCUMSTANCES, I.E. NON-ARM'S LENGTH TRANSACTION. EC DID NOT ADVOCATE A POSITION THESE TOPICS BUT SUGGESTED THEY BE USED AS BASIS FOR DISCUSSION AT NEXT MEETING. US, AUSTRALIA, AND NEW ZEALAND PROMISED TO REPORT TOPICS TO CAPITALS FOR CONSIDERATION, WITH AUSTRALIA AND NEW ZEALAND REMINDING EC THAT WORK ON SOME OF THESE ISSUES IS PROCEEDING AT TECHNICAL LEVEL IN CCC.

5. MALAYSIA QUERIED SUBGROUP ON HOW SPECIAL AND DIFFERENTIAL TREATMENT FOR LDC'S IS BEING TAKEN ACCOUNT OF IN LIMITED OFFICIAL USE

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VALUATION AREA. MALAYSIA NOTED ITS CHANGE FROM SITC TO BTN SEVERAL YEARS AGO SHOULD BE CONSIDERED AS CONTRIBUTION TO MTN. INDIA EXPLAINED HOW ITS VALUATION SYSTEM HAD BEEN REVISED TO CONFORM WITH GATT AND STATED ITS CONVERSION TO CCCN AS OF 1 AUGUST 1976 SHOULD BE REGARDED AS A CONTRIBUTION TO REMOVING BARRIERS TO TRADE.

6. DOCUMENTATION: CHAIRMAN PROVIDED A REPORT OF ACTIVITIES IN THE CCC AND THE ECE. NORDICS AND SWITZERLAND FAVORED COMMERCIAL INVOICES BE ACCEPTED FOR CUSTOMS VALUATION, AND REQUESTED SUGGESTION THAT NEGATIVE LIST OF DOCUMENTATION REQUIREMENTS THAT SHOULD BE ABOLISHED BE DRAWN UP BY SUBGROUP. INDIA AND MALAYSIA CRITICIZED DOCUMENTATION REQUIREMENTS OF US (FORM 5515) AND CANADA, ESPECIALLY WITH REGARD TO EXTRA BURDEN THESE DOCUMENTATION REQUIREMENTS PLACE ON LDCS. US WAS SUPPORTED BY EC IN SUGGESTION THAT TECHNICAL WORK OR OTHER ORGANIZATIONS BE TAKEN INTO ACCOUNT IN SUBGROUP'S WORK. US AND EC RECALLED THAT SUBGROUP HAD CONCLUDED, IN PREVIOUS MEETINGS, THAT STRUCTURAL REFORMS MAY BE NEEDED BEFORE DOCUMENTATION CHANGES ARE POSSIBLE; THEREFORE DISCUSSION SHOULD FOCUS ON POLICY RATIONALE FOR DOCUMENTATION NOT PIECE-MEAL MODIFICATIONS TO DOCUMENTS THEMSELVES. SUBGROUP AGREED TO EC SUGGESTION THAT SECRETARIAT PREPARE REPORT ON ACTIVITIES OF CCC AND ECE IN FIELD OF CUSTOMS DOCUMENTATION AND PROCEDURES.

7. CONSULAR FORMALITIES AND FEES: US PROPOSED A SERIES OF BILATERAL CONSULTATIONS, WITH SECRETARIAT ASSISTANCE, OF COUNTRIES MAINTAINING THESE FORMALITIES AND FEES AND THOSE INTERESTED IN THEIR REMOVAL, WITH OBJECTIVE OF ASCERTAINING RATIONALE FOR CONTINUANCE OF THESE REQUIREMENTS AND EXPLAINING POSSIBLE ALTERNATIVES. EC, CANADA, NORDICS, JAPAN, AUSTRIA AND ISRAEL SUPPORTED THIS PROPOSAL. IN LIVEDEBATE, ARGENTINA, MEXICO, GUATEMALA AND BOLIVIA STEADFASTLY MAINTAINED POSITION THAT CONSULAR FORMALITIES AND FEES DO NOT HINDER TRADE BUT PROVIDE IMPORTANT FUNC-

TION FOR IMPORT REGIME. ARGENTINA NOTED ONLY ITEMS NOT IMPORTED BY STATE AGENCIES, APPROXIMATELY ONE HALF OF ARGENTINE IMPORTS, ARE SUBJECT TO CONSULAR FORMALITIES AND FEES REQUIREMENTS. MEXICO STATED THAT CONTRARY TO US INFORMATION (MTN/NTM/W/22/REV.1) CONSULAR FEE ONLY US \$8. ARGENTINE LIMITED OFFICIAL USE

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TINA RESPONDED TO EC ARGUMENT THAT VARIABLE LEVIES MORE RESTRICTIVE TO TRADE THAN HOURS OF BUSINESS FOR WHICH CONSULAR OFFICE IS OPEN. ARGENTINA, MEXICO AND GUATEMALA CONSIDERED THAT DC'S ARE VAGUE IN THEIR ALLEGATIONS THAT CONSULAR FORMALITIES AND FEES IMPEDE TRADE AND REQUESTED THAT DIFFICULTIES ENCOUNTERED BE SUBMITTED IN WRITING. US CIRCULATED ITS PROPOSAL IN WRITING INCORPORATING LDC IDEA THAT PLURILATERAL SESSION ALSO INCLUDE EXPLANATIONS OF PROBLEMS EXPORTERS HAVE ENCOUNTERED WITH THESE FORMALITIES AND FEES. ARGENTINA, MEXICO, PHILIPPINES, BOLIVIA, AND GUATEMALA BELIEVE TIME PREMATURE TO ACCEPT US PROPOSAL, WITH LATTER THREE INDICATING PROPOSAL TO BE TRANSMITTED TO CAPITALS FOR COMMENT. US EXPRESSED DISAPPOINTMENT THAT ONLY COUNTRIES MAINTAINING CONSULAR FORMALITIES AND FEES OPPOSED US PROPOSAL, AND ASKED THAT PROPOSAL BE KEPT ON TABLE FOR NEXT MEETING. US DELEGATION HAS REQUESTED THAT PROPOSAL BE CIRCULATED AS A GATT DOCUMENT.

8. CUSTOMS PROCEDURES AND PENALTIES: THIS TOPIC, OF PARTICULAR INTEREST TO CANADA, ELICITED NO DISCUSSION. SUBGROUP AGREED TO KEEP ITEM ON AGENDA FOR NEXT MEETING.

9. DATE FOR NEXT MEETING: ALTHOUGH EC PROPOSED MEETING IN LATE OCTOBER, SUBGROUP AGREED THAT NTM PARENT GROUP CONVENING JULY 20 SHOULD SET DATE FOR NEXT MEETING FOR SOMETIME IN FALL. WALKER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NONTARIFF BARRIERS, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 09 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MTNGE05450
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760267-0663
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760774/aaaacncs.tel
Line Count: 370
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2004 by greeneet>; APPROVED <03 AUG 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MEETING OF NTM SUBGROUP ON CUSTOMS MATTERS, JULY 518, 1976
TAGS: ETRD, MTN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006